

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

GARY and JERI ROSSELLI, individually; )  
JUDITH D. REED, individually; DOLORES )  
DELARWELLE, individually; DONALD and )  
TAMMY MEYER, individually; MELVIN )  
and YVONNE BRUEGGERT, individually; )  
and the same on behalf of themselves and on )  
behalf of others similarly situated, and ROES )  
6-600, inclusive, )

3:10-CV-00425-LRH-VPC

ORDER

Plaintiffs,

v.

BRADDOCK & LOGAN GROUP II, L.P., a )  
California Limited Partnership; BRADDOCK )  
& LOGAN SERVICES, INC., a California )  
Corporation; VALLEY CONCRETE CO., )  
INC., a Nevada Corporation, and DOES 2 )  
through 500, inclusive, )

Defendants.

Before the court is Plaintiffs' Motion to Remand to Second Judicial District Court of Nevada (#13<sup>1</sup>), filed August 6, 2010. Remand to state court is requested on the ground that complete diversity has been destroyed by virtue of Plaintiff's post-removal amendment of the complaint adding a non-diverse defendant, Valley Concrete Co., Inc. ("Valley Concrete"). Doc.

<sup>1</sup>Refers to the court's docket entry number.

1 #13, p. 2-3. On August 24, 2010, the defendants that originally removed the action on diversity  
2 grounds, Braddock & Logan Group II, L.P., and Braddock & Logan Services, Inc. (collectively  
3 “Braddock & Logan”), filed a Notice of Non-Opposition (#18) to the motion to remand.

4 For their part, on September 10, 2010, Valley Concrete initially filed a Motion to Dismiss  
5 Plaintiff’s First Amended Complaint and/or Motion for Partial Summary Judgment (#21), arguing  
6 in part that it was named as a defendant post-removal specifically “to defeat diversity jurisdiction  
7 and/or forum shop.” Doc #21, p. 3. However, Valley Concrete withdrew that motion on  
8 September 30, 2010. Doc. #25.

9 For federal courts to have subject matter jurisdiction under 28 U.S.C. § 1332(a), there must  
10 be complete diversity of citizenship between the opposing parties, and no defendant may be a  
11 citizen of the forum state. *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 84 (2005). “If after removal  
12 the plaintiff seeks to join additional defendants whose joinder would destroy subject matter  
13 jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State  
14 court.” 28 U.S.C. § 1447(e). Accordingly, given the unopposed joinder of Valley Concrete as a  
15 non-diverse defendant and that no defendant has filed an opposition to Plaintiffs’ motion to  
16 remand, the court will grant the motion and remand the action to state court.

17 IT IS THEREFORE ORDERED that Plaintiffs’ motion to remand (#13) is GRANTED.

18 IT IS FURTHER ORDERED that this case is remanded to the District Court of Washoe  
19 County, Nevada.

20 IT IS SO ORDERED.

21 DATED this 18th day of October, 2010.



22  
23  
24 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE